

REMARKS

Claims 1, 3, 4, 6-9, 12, 14-20 and 22-24 are canceled without prejudice or disclaimer. Applicants reserve the right to pursue any of the canceled subject matter in one or more continuing applications. Claims 3, 5, 10, 11, and 13 stand rejected. Claims 2, 5, 21, 25-28 were allowed by the Examiner in the most recent action. New claims 29-42 have been added. Upon entry of the amendments above, claims 2, 5, 10, 11, 13, 21, and 25-42 will be pending.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claim 3, 5, 10, 11, and 13 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly lacking written description. Although Applicants do not agree with the rejection, to expedite prosecution, Applicants have canceled claim 3 and amended the other claims to eliminate any dependency from claim 3, thereby obviating this rejection.

New claims 39 and 40 recite a substantially pure nucleic acid that hybridizes to the nucleotide sequence of SEQ ID NO:5 under high stringency conditions. These claims no longer include language that the Examiner contested in the most recent action.

Applicants again draw the Examiner's attention to the Revised Interim Written Description Guidelines Training Materials (1999) (available at <http://www.uspto.gov/web/offices/pac/writtendesc.pdf>). Example 9 endorses the use of hybridization claims in an example with a single species (page 35 et seq.). The Office is required to abide by published policy. Morton v. Ruiz, 415 U.S. 199, 235 (1974) ("it is incumbent upon agencies to follow their own procedures").

As acknowledged by the Examiner, "hybridization can be used to identify related polynucleotides." (Office Action Paper at p. 6). The currently claimed nucleic acids necessarily can be used as probes to detect SEQ ID NO:5, e.g., in Southern Blots, Northern Blots and, nucleotide arrays.


Applicant : Katia Georgopoulos et al.
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Enclosed is a check for \$55 and a petition for a one-month extension of time, up to and including October 2, 2004. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 10284-095001.

Respectfully submitted,

Date: October 4, 2004



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